

PATENT COOPERATION TREATY
PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference C10127PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/012227	International filing date (<i>day/month/year</i>) 28.10.2004	Priority date (<i>day/month/year</i>) 29.10.2003
International Patent Classification (IPC) or national classification and IPC B65D81/26		
Applicant CFS GERMANY GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: <ul style="list-style-type: none"> a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 2 sheets, as follows: <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

 - international search (Rule 12.3 and 23.1(b))
 - publication of the international application (Rule 12.4)
 - international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:
 pages 1–6 _____ as originally filed/furnished
 pages* _____ received by this Authority on _____
 pages* _____ received by this Authority on _____
 the claims:
 nos. _____ as originally filed/furnished
 nos.* _____ as amended (together with any statement) under Article 19
 nos.* 1–11 received by this Authority on 14.10.2005 with telefax
 nos.* _____ received by this Authority on _____
 the drawings:
 sheets 1/3–3/3 _____ as originally filed/furnished
 sheets* _____ received by this Authority on _____
 sheets* _____ received by this Authority on _____
 a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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1. Statement

Novelty (N)	Claims _____	YES
	Claims <u>4</u>	NO
Inventive step (IS)	Claims <u>1-3, 9-11</u>	YES
	Claims <u>5-8</u>	NO
Industrial applicability (IA)	Claims <u>1-11</u>	YES
	Claims _____	NO

2. Citations and explanations (Rule 70.7)

1. D1 (DE-A-100 61 965) is considered to be the prior art closest to the subject matter of claim 1. D1 discloses a packaging tray that is made of a plastic film and comprises an insert that can absorb liquid, said insert being welded to the packaging tray.

The subject matter of claim 1 is distinguished from the known packaging tray in that the plastic film has a sealing layer, and in that the insert with the sealing layer is welded in such a way that it can be peeled off.

The claimed combination of features makes it possible for the insert to be separated from the shell, and the shells can be disposed of separately or reused. The available prior art does not provide any information that might suggest the claimed solution.

The subject matter of claim 1 therefore involves an inventive step.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<p>2. Similarly, the subject matter of claim 9 also involves an inventive step.</p> <p>3. Claims 2, 3 and 10, 11 are dependent on claim 1 and claim 9, respectively, and therefore also meet the PCT requirements for novelty and inventive step.</p> <p>4. D1 discloses a packaging machine having a working station in which an insert is inserted into a packaging tray and welded thereto. The insert is welded to the packaging tray by means of ultrasonic welding. An ultrasonic welding device consists of an ultrasonic head, which can also be called a stamp and which exerts a certain pressure on the insert in order to heat it up. The ultrasonic head can therefore also be characterized as heating means. Thus the packaging machine according to D1 has a stamp with which the insert can be pressed into the packaging tray, and means for heating the insert (and the packaging tray). Whether or not the resultant connection is peelable depends mainly on the materials used for the packaging tray and the insert and on the settings of the machine (in terms of pressure, temperature, duration). The machine disclosed in D1 is suitable for producing a peelable connection.</p> <p>The subject matter of claim 4 is therefore not novel.</p>	

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PCT/EP2004/012227**Box No. V** **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

It should also be noted that a conventional welding device with a stamp and heating means is suitable for welding an insert to a packaging tray.

5. Claims 5 to 8 are conventional measures and therefore do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step.